4th February 1936]

Mr. G. Sriramulu:—"May I know, Sir, whether the Government have received a representation from the Kalalis requesting that they may be treated as a community separate from the Non-Brahman Hindus?"

The Hon. Sir Charles Souter:—"Notice."

Administration of Justice

Rules regarding the sale of properties by Official Receivers.

*718 *Q.*—Mr. G. Rameswara Rao: Will the Hon. the Law Member be pleased to state—

(*a*) whether the Official Receivers have no rules regarding the publication and conduct of sales;

(*b*) whether the Government have received representations that some of them conduct sales without sufficient previous notice and cause hardship to owners of property and loss to creditors thereby; and

(*c*) whether the Government propose to issue rules on the subject?

A.—(*a*) The attention of the hon. Member is invited to High Court's Circular Order (F) under the heading 'Sales by Official Receivers' published at pages 226–227 of Volume I of Civil Rules of Practice (Reprint of 1930), and an extract[a] of which is annexed.

(*b*) No.

(*c*) No.

Mr. G. Rameswara Rao:—"May I ask the Hon. the Law Member to reconsider the matter in view of the fact that there is an instance of a sale having been cancelled by court, and the receiver conducting another sale the next day without any notice to the party? It is a real hardship. May I request therefore the Hon. the Law Member to reconsider the question and lay down a rule that there should be an interval?"

The Hon. Sir K. V. Reddi Nayudu:—"If any such thing had really occurred, the Official Receiver would be asked to account for it, because I find from the rules made by the High Court, that 'the first auction should always be adjourned to secure more bidders and a second auction should also be adjourned if the amount of the bid is less than half the upset price.' Then rule 5 says: 'When a sale is adjourned for more than a week there ought to be a fresh proclamation. If not a fresh proclamation, at least there ought to be fresh notices to the creditors. There ought to be something to convince one that the amount realized in the sale did not suffer diminution for want of publicity of the adjourned date.' These rules contemplate that an upset price should be fixed at any sale. But if any Official Receiver did not keep these rules in view, certainly enquiries will be made."

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[a] Printed as Appendix V on page 521 infra.

Mr. G. Rameswara Rao:—"These rules provide for the second stage. As regards the first stage there is nothing at all in writing and this provides a loophole for the Official Receiver. Therefore I want to suggest to the Government to reconsider the matter and fix definite intervals between the date of the proclamation and the date of the sale, so that there may be no room for such practices. As a matter of actual fact, in one case it happened like this: the sale was cancelled by court at 1 p.m. and immediately thereafter before my client could reach the place, another sale had been conducted by the receiver?"

The Hon. Sir K. V. Reddi Nayudu:—"I quite see the difficulty in a case like that. But still I feel that the existing rules provide for the interval. However, if at the will and pleasure of an officer sales have been conducted, such cases will be enquired into."

Fixing an upset price on the immovable properties of insolvents before sale.

* 719 *Q.*—Mr. G. Rameswara Rao: Will the Hon. the Law Member be pleased to state—

(*a*) whether there are any rules regarding fixing the upset price and proclaiming sale of insolvents' immovable properties before Official Receivers actually sell them; and

(*b*) if not, whether the Government are contemplating issue of rules on the subject?

A.—(*a*) The attention of the hon. Member is invited to paragraphs 4 (*b*) and (5) of High Court's Circular Orders published at page 227 of Civil Rules of Practice, Volume I (Reprint of 1930), an extract [a] of which is annexed. Paragraph 4 (*b*) implies that an upset price should be fixed in every sale by Official Receivers.

(*b*) Does not arise.

Mr. G. Rameswara Rao:—"Sir, the answer is that the rule implies that an upset price will be fixed. As a matter of fact there is no special provision requiring it to be fixed. In the absence of such a specific rule, there is room for error in this direction also?"

The Hon. Sir K. V. Reddi Nayudu:—"I suppose it ought not to be difficult. The rules clearly say that it should not be less than half the upset price."

Mr. G. Rameswara Rao:—"In the rules nothing has been said expressly regarding upset price before sale for the first time."

The Hon. Sir K. V. Reddi Nayudu:—"I will look into the matter."

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[a] Printed as Appendix VI on pages 521–522 infra.